NEED FOR EVOLVING CORPORATE MANSLAUGHTER LEGISLATION IN INDIA: A CORPORATE GOVERNANCE ADVANCEMENT TO PROTECT STAKEHOLDERS INTEREST

A

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BY

Ruth Vaiphei

(Enrollment No: RSILS190057**)**

Under the Supervision of

Dr. Ashish Kumar Singhal

Associate Professor, ILS

ICFAI LAW SCHOOL

The ICFAI University, Dehradun

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The ICFAI University, Dehradun

DECLARATION

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Signature **Date:** 24/11/2022

Candidate's Name:
Ruth Vaiphei

The ICFAI University, Dehradun

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A. K. Singhal

Signature of the Supervisor in full

Name in Capital Letters DR. ASHISH KUMAR SINGHAL

Designation & Address Associate Professor

D-209, ICFAI Law school

IUD, Dehradun

ABSTRACT

A corporation is symbolically viewed as a "person" who is capable of holding property, suing and being sued, to have perpetual succession, and who is distinct from its members. This is because corporations were created under the doctrine of independent legal entities, which dates back many decades. Corporate realism and nominalism, which are contrasted as having neither soul or body, are far from being resolved, though. It is suggested that the primary cause may be related to the mention of numerous separate theories, which instil a skeptic's perception of the essence of a "juristic person." And as time passby, it became clear that the separate legal entity notion had done more harm to society than good. To address this, the doctrine of removing the Corporate Veil was developed. However, the corporate veil theory will only apply in circumstances of fraud and deception. The idea of identifying a firm and ascertaining its mind and will emerged from the corporate veil doctrine. These principles demonstrate that although if the corporation is a distinct legal entity, its management is nevertheless carried out by "flesh and blood" persons. Every company is run by a group of people who collectively form the will and mind of the organisation. As a result, when a crime is committed by one of these corporations, the men's rea requirement must be satisfied by attributing the guilty mind with knowledge of the people running its affairs, which is not an easy task given that corporations are treated as individuals in themselves. This suggests that corporations conceal themselves behind the legal fiction of incorporation and employ this discourse to escape responsibility for murder or homicide brought on by the business, leaving no one accountable and the victim without recourse. In India, despite the Courts recognizing the capacity of companies to have more, and events like the Bhopal gas leak tragedy, there exists no legislative framework to address the issue of Corporate Manslaughter, unlike the Corporate Manslaughter and Homicide Act of the United Kingdom. The study will emphasise the significance of enforcing corporate manslaughter accountability, make recommendations regarding the type of culpability, and clarify the general idea of corporate manslaughter, a crime in which a business or organisation is found to be accountable for a person's death. Additionally, the researcher will speak with the surviving corporate manslaughter victims as part of its empirical study and elaborate on the viability of a legal procedure in which a company can be charged with the crime of corporate manslaughter if the way it As there is now no specific statute to tackle corporate manslaughter, which is urgent given that industrial tragedies occur frequently in India. It is undeniable that multiple Acts deal with this topic in a variety of ways, yet it is still debatable if justice is actually

delivered in a satisfactory fashion. There is no clear understanding of how this kind of issue has been dealt with up to this point, and there is no set policy for how to deal with the horrible crime perpetrated by the corporate house. There is now no specific law in place to deal with this kind of problem as India's government works to make it a global manufacturing giant. This study will examine the distinctions between corporate manslaughter and criminal liability for corporations, as well as whether or not corporate homicide can be effectively addressed by a corporate manslaughter statute, the lack of an explicit corporate manslaughter statute in India, and other related issues. In light of the current confusion in the law, the reseach work will also discuss the need to update the law regarding corporate manslaughter and examine if doing so will improve stakeholder interest protection as part of corporate governance

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I.INTRODUCTION

A company incorporated under Company Act is vested with a corporate personality so it redundant bears its name, acts under its name, has a seal of its own and its assets are separate and distinct from those of its members. It becomes a different person from the members who compose it. Therefore, it is capable of owning property, incurring debts, borrowing money, having a bank account, employing people, entering into contracts and suing or being sued in the same manner as an individual. Thus, incorporation is the act of forming a legal corporation as a juristic person. In the legendary case, **Salomon Vs Salomon Co. Ltd.**[1] has established the principle that once a company has been validly constituted under the Companies Act, it becomes a legal person distinct from its members and for this purpose, it is immaterial whether any member holds a large or small proportion of the shares, and whether he holds those shares as beneficiary or as a mere trustee, and the company and the person who composed of cannot be treated as the same person.

Understanding the birth and separate legal personality of corporation it is vivid that those act as much individual does, company is capable of committing the same and can even form **men's rea**, in this regard referring to the case of **Shiromani Gurdwara Prabandhak Committee Vs Shri Sam Nath Das**[2] it was held that entity acts like a natural person but only through a designated person, whose acts are processed within the ambit of the law. Therefore, the fact that a company is just fiction and it is run and controlled by a natural person cannot be denied and it is perhaps capable of forming a **men's rea**. But Corporations hide behind the veil of incorporation and use this rhetoric to evade liability for **manslaughter or homicide** caused by the company, leaving no one liable and the victim without a remedy has become a great concern.

In general parlance, corporate manslaughter is a criminal offence where a company or organization is found to have caused a person's death even though it may be inadvertently. Sometimes, deaths can result as a direct result of corporate behaviors where health and safety procedures have been ignored. Therefore, a corporation can be prosecuted for the offence of

[1] 1896 UKHL 1
[2] 1984 (2) SC 600

corporate manslaughter, if the way in which its activities are managed causes a death of a person.

Corporate governance Corporate or a Corporation is derived from the Latin term “corpus” which means a “body”. The root of the word Governance is from ‘gubernate’, which means to steer. “Governance” means the process of decision making and the process by which decisions are implemented or not implemented. Therefore, Corporate governance means a set of systems, procedures, policies, practices, standards by which the company is direct and control and to ensure that relationship with various stakeholders is maintained transparently and honestly. “Corporate Governance is about promoting corporate fairness, transparency, and accountability.” James D. Wolfensohn (Ninth President World Bank). Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance.

The main pillars of corporate governance are:

- Transparency: In operation; timely & accurate disclosure on all material matters, including the financial situation, performance, ownership and governance
- Accountability: Management is accountable to the Board; Board is accountable to shareholders
- Fairness: Towards all the stakeholders; treated all shareholders including minorities, equitably; provide effective redress for violations;
- Responsibility: towards the society at large.

As per the UK Corporate Manslaughter Act, If how an organisation carries out / manages its activities causes a person’s death or amounts to a gross breach of the relevant duty of care owed by the organisation to the deceased, then such organisation is guilty of an offence of corporate manslaughter. Hence, it ensures the protection of various stakeholders which is one of the essences of corporate governance.

II.RESEARCH PROBLEM

Corporate manslaughter in India have been caused due to many reasons, but primarily because of:

1. Adulterated goods produced by corporations and consequent deaths of consumers and also

employees who work under unhealthy and unsafe environments.

2. Corporations causing environmental disasters due to their lack of concern towards the environment and the concept of a sustainable environment.

3. The pharmaceutical companies dealing in illegal clinical trials

4. Importing toxic wastes from foreign countries and disposing of them without properly treating them.

Post the **Bhopal Gas Tragedy**, several legislations have been passed by the government like the Environmental Protection Act of 1986, the Public Liability Insurance Act of 1991, and the Protection of Human Rights Act of 1993. Also, the concept of Public Interest Litigation came into being which significantly impacted the Indian Judicial System. However, although India is exposed to high levels of poisonous chemicals from companies, and various Industrial disaster incidents which took place in the past and recent that left the victim mystified due to its haphazard existing legislative, there is no specific legislation under which action can be taken assertively against the flouting industrial corporations that deal with noxious substances and against corporate gross negligence towards any Individual which is the cardinal factor of corporate manslaughter. And the finding to this research will redound to the benefit of the society considering the lack of legislation pertaining to Corporate Manslaughter or Corporate Homicide, which is a comprehensive crime committed by corporations that exist only as an artificial judicial person, leaving many victims befuddled, as effective punishment cannot be imposed upon a corporation due to lack of settled statute in that regard. Therefore, adopting a specific law to address corporate manslaughter is imperative and, in that regard, the study will attempt to assess the possibility of enacting such a settled statute to fill the gap. Also, keeping in mind the gist of corporate governance as a set of rules and regulations for guiding and regulating a company, the finding will enhance the protection of the interests of numerous stakeholders of a company in a variety of ways.

III.LITERATURE REVIEW:

1) **Rasmus Hane-Weijman Jansson 2018** *"Corporate Criminal Liability,"*[3] the author opined that when we think about criminals we rarely think about corporate officials, for instance, politicians say they are getting tough on crime we immediately think about street crime such as murder, drugs, rape, assault and so on. In reality, the cost of corporate crime is likely way

[3] Rasmus Hane-Weijman Jansson, *Corporate Criminal Liability Time for Sweden to look beyond individual criminal responsibility?* Uppasla University,Department of Law (2018).

beyond that of street crime. Therefore, he concludes that the legislators and legal thinkers have a hard time coming up with a unified and comprehensive solution to corporate crime. Street crimes fit the predominant individual criminal responsibility doctrine within criminal law very well while corporate crime does not which therefore pave the way for the feasibility of adopting a separate statute for corporate criminal liability.

2) **Aurora Voiculescu 2009** *"Human Rights and the New Corporate Accountability: Learning from Recent Developments in Corporate Criminal Liability"*[4] According to the author bringing under the law specifically CSR issues related to human rights, such as certain health and safety or environmental issues, can re-enforce the signal that society considers certain corporate harms serious enough to bring them under the remit of criminal law. Moreover, legal and social responsibilities can also interact through an 'infusion' of social responsibility arguments and justifications into the (traditional) criminal law reasoning.

3) **Darryl K. Brown 2001,** *"Street Crime, Corporate Crime, and the Contingency of Criminal Liability"*[5] describe that the actual working of criminal justice practice we need to uncover the criteria, beyond the legal elements, for imposing criminal culpability. Corporate and white-collar crime prosecution differs from street crime prosecution because of its different mix of retributive and deterrence concerns, which leads corporate crime policy to take greater advantage of our knowledge of how social norms interact with the law, of the social costs that accompany punishment, and of the alternatives to criminal law. Corporate crime should be handled more like street crime. Rather, street crime should be addressed more like corporate crime. He argues about having an explicit criminal law where all kinds of crime are addressed more of like a corporate crime.

4) **Ann Foerschler 1990,** *"Corporate Criminal Intent: Toward a Better Understanding of Corporate Misconduct,"*[6] The author concludes that although corporations can be "persons"

[4] Voiculescu, Aurora, *Human rights and the new corporate accountability: Learning from recent developments in corporate criminal liability*, 87 Journal of Business Ethics 419, 423-424 (2009).
[5] Darryl K. Brown, *Street Crime, Corporate Crime, and the Contingency of Criminal Liability*,U PEEN LAW REV(2001).
[6] Ann Foerschler, *Corporate Criminal Intent: Toward a Better Understanding of Corporate Misconduct*, 78 Cal.Law Rev.1287 (1990).

in certain legal contexts, they cannot so easily be criminals. Recognition of criminal liability for corporate entities has been slow in coming into the law. The prosecution of corporations for intent crimes has been particularly problematic. For such crimes, the law has attempted to anchor the criminal liability of corporations to the intent of individuals within the corporation. Organizational theory, through its several models of corporate decision making, confirms that borrowing intent from individual corporate actors may not be productive, since some corporate acts can never be traced to the intent of any one individual. This Comment suggests a framework to replace the conventional rule of imputing criminal intent directly from individuals to the corporation.

5) **V. S.Khanna (1996)** *"Corporate Criminal Liability: What Purpose Does It Serve?,"*[7] conclude that Corporate criminal liability is an institution of considerable antiquity. However, there is little understanding of what, if anything, it is designed to achieve. The historical development of corporate criminal liability suggests that it may have arisen to use public enforcement and later developed to exploit the greater information-gathering powers it possessed relative to corporate civil liability. However, as time passed, corporate civil liability acquired a public enforcement apparatus and made strong prelitigation information-gathering possible. Thus, the question has become whether corporate criminal liability serves any purpose now. To determine the purpose of corporate criminal liability, we must realize that it is only one of several different liability strategies that can regulate behaviour in and around corporations. Therefore, we must compare corporate criminal liability against other liability strategies. He indirectly highlights the significance of evolving explicit legislation about corporate criminal, liability.

6) **James Gobert, (2008)** *"The Corporate Manslaughter and Corporate Homicide Act 2007: Thirteen Years in the Making but Was It Worth the Wait?"*[8] The author concludes that the Act signifies that companies and other organizations (as well as Crown bodies) are not above the law and are capable of committing crimes as grave as manslaughter. Further signifies that causing a workplace death is a real crime and not just a 'regulatory' offence. Health and

[7] V. S.Khanna, *Corporate Criminal Liability: What Purpose Does It Serve?,* 109 Harv. L. Rev 1477(1996).
[8] James Gobert, *The Corporate Manslaughter and Corporate Homicide Act 2007: Thirteen Years in the Making but Was It Worth the Wait?,*71 Mod.Law Rev.413 (2008).

safety laws, despite the penal sanctions attached to their violation (and the same maximum penalty and unlimited fine as attached to a corporate manslaughter conviction), are viewed quite differently by both those in industry and the general public. All would regard manslaughter as a serious offence; in contrast, health and safety violations are often viewed as involving technical breaches of overly protective rules laid down by many states. To some extent, the latter attitude may be attributable to the fact that health and safety violations do not require proof of death.

7) **Ash Samanta and Jo Samanta, (2006),** *"Charges of corporate manslaughter in the NHS:May be brought if patients die after clinical negligence.*"[9] The authors highlighted that indictments for manslaughter founded on alleged gross negligence after the death of a patient in the United Kingdom have been brought against doctors rather than hospitals and NHS trusts. A hospital or trust as an organization could be incriminated in a charge following the death of a patient, and corporate manslaughter, or corporate killing, may emerge as a new threat. According to Corporate Manslaughter Bill. The offence occurs if "the way in which any of the organisation's activities are managed or organized by senior managers causes a person's death and amounts to a gross breach of a relevant duty. They conclude by lauding the evolving of the explicit statute of corporate manslaughter as it instils a ray of hope for those helpless victims who suffer due to gross negligence of the corporate house.

8) **Victoria Roper (2018),** *"The Corporate Manslaughter and Corporate Homicide Act 2007, U.K —A 10-Year Review,"*[10] the research invokes after the Grenfell Tower fire stimulated renewed debate about corporate manslaughter and the ability of the law to hold organizations and individuals to account. She concluded that the statutory affords a superior basis of liability to the unwieldy common law offence that preceded it; there have been more prosecutions, higher average fines and its reach encompasses more than just micro/small companies. However, according to him, in order to fully capture and prevent the wide range of deaths within the Act's remit, it is vital for the prosecutors to enhanced training and a

[9] Ash Samanta and Jo Samanta, *Charges of corporate manslaughter in the NHS: May be brought if patients die after clinical negligence*, 332 BMJ 1404 (2006)

[10] Victoria Roper, *The Corporate Manslaughter and Corporate Homicide Act 2007, U.K —A 10-Year Review,82* J.Crim.L.48(2018).

willingness to embrace a holistic reconceptualization of 'offender' he also highlights the needs for de nova reconceptualization in this area as there are numerous corporate manslaughter cases that are unreported.

9) **Samson Erhaze1 & Daud Momodu (2015)** *"Corporate Criminal Liability: Call for a New Legal Regime in Nigeria."*[11] According to the authors, the increasingly relevant role that corporations assume in all aspects of modern life is correspondingly attended by their increased participation in criminal activities that result in loss of lives and properties. However, there is a conundrum created by the artificiality of corporations as they do not easily lend themselves to existing criminal laws designed with human actors in mind.

   The researcher emphasizes the need to make a radical departure from the present position of the law to the effect that corporations could only be criminally held liable for very limited offences, by citing the then-current Nigerian law on corporate criminal liability is disquietingly deficient. As the extant law only provides room for civil recompense in the event of tragedies such as the recent petrol tankers explosions in different parts of Nigeria which claimed hundreds of lives. While considering the extant position in the UK by virtue of the Corporate Manslaughter and Corporate Homicide Act, 2007, calls for a review of the laws, and more particularly, calls for the expedited passage of the Corporate Manslaughter Bill, 2010 into law if the menace of corporate killings is to be properly confronted in Nigeria. Mainly, the challenge is that legal concepts such as actus reus, men's rea and causation, designed with natural actors in mind, do not easily lend themselves to inanimate entities such as companies that are distinct and separate from their owners.

10) **Olarinde E. Smarand & Udosen Jacob (2020),** *"Corporate Manslaughter Law in Nigeria: A Comparative Study"*[12] concluded by pointing out that, It is unfortunate to note that to date, no charge of manslaughter has ever been proffered by the Federal Attorney-General nor has the court ever made any conviction with regard to involuntary manslaughter or gross negligence manslaughter which results from a breach of a duty of care, for a simple reason

[11] Samson Erhaze1 & Daud Momodu,*Corporate Criminal Liability: Call for a New Legal Regime in Nigeria,* 3 JLCJ 63 (2015)

[12] Olarinde E. Smarand & Udosen Jacob, *Corporate Manslaughter Law in Nigeria: A Comparative Study,* 11 Beijing Law Rev. 358 (2020)

of inadequacy of law. As In Nigeria, for an act to be a crime, it must be stipulated under a written Law.

11) **James W. Harlow (2011)**, *"CORPORATE CRIMINAL LIABILITY FOR HOMICIDE: A STATUTORY FRAMEWORK."*[13] He invokes the need for evolving a statute that would address corporate manslaughter by attributing that, since the nineteenth century, judges, legislators, prosecutors, and academics have grappled with how best to accommodate within the criminal law corporations whose conduct causes the death of others. The result of this debate was a gradual legal evolution towards the acceptance of corporate criminal liability for homicide. But, he argues, the underlying legal framework for such liability is ill-fitting and largely ineffective. Given the public benefit that would accrue from a clearly defined and potent liability scheme, he proposes the significance of a criminal statute that would hold corporations directly liable for homicide.

    Ultimately, the author argues that a statutory scheme would allow prosecutions of corporations for homicide to proceed more accurately, effectively, and fair by describing numerous deadly incidents to confirm the pressing need for legislation; and he concludes by imposing up to policymakers to decide the way forward.

12) **Devika Sharma (2019)** *"Ways and Means to Strengthen Corporate Governance,"*[14] contended that the impact and scale of corporate crimes have reached unascertainable heights in recent times. It seems corporate governance has gone for a toss. Most of the corporate crimes are backed by continuous and meticulous planning coupled with unethical activities conducted by individuals hiding behind the corporate veil. The legal proceedings in such cases remain quite complex, lengthy and tedious due to the involvement of a lot of documents and evidence. Due to the complex structure of these corporations, locating the real people behind the corporate veil becomes a tough nut to crack. Further, states that the courts may adopt a mixed model and need to impose sanctions based on the fact of every case. Both compensation and imprisonment are useful tools in the hands of the judiciary. They should work in tandem and must together act as a deterrent against complex corporate crimes. While the imprisonment of individuals by piercing the corporate veil combats personal motives behind such activities, fines make the economic motive behind

[13] James W. Harlow 2011, *Corporate Criminal Liability For Homicide: A Statutory Framework*, 61 Duke Law J. 123 (2011).

[14] Devika Sharma,*Ways and Means to Strengthen Corporate Governance*,(2019), https://www.scconline.com

crimes redundant. However, she failed to address the viability of adopting a comprehensive statute in this regard.

13) **Arti Aneja (2016)** *"Multidimensional Aspects of Corporate Criminal Liability: An Indian Perspective,"*[15] concludes that the concept of corporate criminal liability is still in its emerging stage in India as well as globally. Although attempts are made in terms of legislations like the Companies Act, 2013 to control and reduce corporate crime, the very definition and concept of corporate criminal liability are still at a nascent stage. Corruption is an evolving menace that the Indian government is trying hard to fight.

    Apparently, a lot is required to be done in the area but the efforts done so far should not be undermined. Provisions must be made to avoid conflicts in the interpretation of corporate criminal liability and its implication for companies.

14) **Paul Almond (2013),** *"Corporate manslaughter and regulatory reform,"*[16] examines and undeniably pointed out that the law governing organizations are in some way responsible for people losing their life, from a range of perspectives. In his phrase *'work-life balance'* he assess a range of issues around work-related death and indeed the death of non-workers, and concluded that it constitutes a far greater problem than has traditionally been thought. This is partly because much work is invisible, at least to authorities and those who count the incidents of deaths at work, as well as those who respond to them.

15) **Geetanjali Sharma & Azai Khan (2010)** *"Analysis of liability approached: Proposal of a regime for corporate criminal offences in India,"*[17] They highlighted the legal void existing in India by analysing provisions of the law in other countries both developed and developing countries. The issues identified mainly deal with the lace of process in identifying the culprit organisations and the reluctance shown by the Courts in imputing liability on corporations. However, they failed to study the viability of adopting an explicit statute dealing with complex criminal liability in India.

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[15] Arti Aneja, *Multidimensional Aspects of Corporate Criminal Liability: An Indian Perspective*,72 JLJ 34 (2016)

[16] PAUL ALMOND, CORPORATE MANSLAUGHTER AND REGULATORY REFORM 9(Customer Services Department, Macmillan Distribution Ltd, 2013)

[17] Geetanjali Sharma & Azai Khan, *Analysis of liability approached: Proposal of a regime for corporate criminal offences in India*,4 MLJ(2010)

16) **Ananthi Bharadwaj (2009),** "Corporate Manslaughter and Corporate Homicide Act, 2007."[18] She concluded by stating that the trend of corporate criminal liability indicates that most successful convictions of corporations were for statutory offences, by reading the word 'person' in the applicable provision of law to include a corporation. Successful convictions for non-statutory offences have been rare. As regards corporate liability for manslaughter, prior to this Act, even the courts in the U.K did not succeed in imputing men's rea to any of the accused. Therefore having an explicit statute in this regard is pivotal. However, she failed to address the viability to adopt the same in India.

17) **T.K. Bhaskar and V. Umakanth (1996)** *"Corporate Criminality and law,"*[19] concluded that the growing recognition of corporate capacity to commit wrong has not been accompanied by a corresponding alteration to the framework of criminal law. The attempt thus far has been to fit corporate wrongdoing into the existing structure. This attempt has failed as is evidenced by the steady rise in a corporate misdemeanour. Corporations have caused considerable harm by price-fixation, false advertisement, defrauding customers and have affected millions with impunity. However, they are not treated or perceived as sharing the same stigma as individual offenders. If the guarantee of equality is to be ensured and the law was to be enforced equitably, then corporate criminality must be viewed with more seriousness as it can damage the nation's social, economic and political institutions. If the law is to be an 'instrument of social change' it ought to be restructured to tackle the growing menace of corporate crimes, thereby ensuring a clean corporate environment.

18) **Bharat Vasani & Umang Pathak (2019)** *"Corporate Criminal Liability – #DirectorToo."*[20] The authors conclude that criminal liability encompasses two elements: actus-reus (guilty act) and men's rea (guilty mind). There is no dispute that a company is liable to be prosecuted for criminal offences. However, the company being an artificial person cannot have the requisite men's rea, hence the question of whether a company could be prosecuted for an offence for which the mandatory sentence is imprisonment. The law has evolved from the position that a company cannot be prosecuted for offences that require

[18] Ananthi Bharadwaj, *Corporate Manslaughter and Corporate Homicide Act, 2007*, 21 NLSIR 201(2009)
[19] T.K. Bhaskar and V. Umakanth, *Corporate Criminality and law*, 38 ILI 218 (1996).
[20] Bharat Vasani & Umang Pathak, *Corporate Criminal Liability – #DirectorToo*,(2019) https://corporate.cyrilamarchandblogs.com

the imposition of mandatory imprisonment, to the position that the men's rea of the 'alter ego' of the company (i.e. the person or group of people that guide the business of the company) will be imputed to the company as laid down by the Supreme Court in Iridium case. Today, the settled position of law is that if a company commits a criminal offence, the liability rests with the directors in two ways: When the offence committed by the company involves men's rea, it would normally come down to the intent and action of the individual acting on behalf of the company. Thus, an individual who has perpetrated an offence on behalf of the company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Where the statutory regime itself attracts the doctrine of vicarious liability by specifically providing for such liability.

However, they failed to discuss where do the law stands when it comes to corporate manslaughter, will the director will be held liable in the same manner?

19) **Dr Sonika Bhardwaj & Mr Ronak V. Chhabria (2019)** *"Liability of Corporations for Manslaughter."*[21] Highlights that in India, despite the Courts recognizing the capacity of companies to have men's-rea, and events like the Bhopal gas leak tragedy, there exists no legislative framework to address the issue of Corporate Manslaughter, unlike the Corporate Manslaughter and Homicide Act of the United Kingdom. Further, they emphasize the importance of imposing liability for corporate manslaughter and suggest that the nature of liability; should be recurring in nature, not just a one-time lump sum settlement.

The research gap is that they did not point out the feasibility of adopting the explicit legal framework in this regard.

IV.RESEARCH GAP

Based on the background of the research problem and literature review, this study aims to fill the following research gap:

Evolving sui generis corporate manslaughter system in India is required due to the following reasons:

- "Directing mind" (identification principle) is not in line with the emerging industrial growth in India.

[21] Dr Sonika Bhardwaj & Mr Ronak V. Chhabria, *Liability of Corporations for Manslaughter,* 4 RRIJM(2019)

- Scope owing a relevant duty of care by the company is very limited in the current Indian scenario.
- The needs for senior managers to manage health and safety adequately, and offence of corporate manslaughter cannot be avoided by senior management delegating responsibility for health and safety.
- Ineffective mode of realizing remedy by the deceased family.
- Requirement of Sentencing Advisory Panel to assist the courts in determining the size of a fine for fair and just treatment of both the parties in issue.

Undisputedly Several studies have delved into the significance of corporate manslaughter legislation and how it differs from street crime and how the two cannot be treated as one and the same, but none have looked into the above-mentioned issue or the feasibility of enacting suigeneris legislation on corporate manslaughter. As a result, the current study attempts to close this gap by examining the current legal framework and the feasibility of furthering transformation in this field.

V.RESEARCH OBJECTIVES:

a) To understand the concept and scope of Corporate Manslaughter
b) To make a comparative analysis between countries having settled law and which does not in this regard
c) To analyses the implication of various legislations, the extend of corporate accountability under those Act concerning corporate manslaughter.
d) To assess the effect of judicial pronouncements, committee reports with regard to corporate manslaughter, and to propose the requirement of creating Sanctioning Advisory Structure.
e) To identify reasons as to why the Indian legislature did not feel the need of adopting specific legislation for the creation of sanctions or provisions that can be imposed on corporations for an offence of corporate manslaughter.
f) To analyse the need and viability for evolving a sui generis system of Corporate Manslaughter as part of corporate governance advancement**.**

VI.RESEARCH QUESTIONS:

a) What is Corporate Manslaughter and what types of offences amount to Corporate Manslaughter?
b) Are the countries with settled laws more successful in preventing the occurrence of corporate manslaughter?
c) Whether the existing framework is sufficient in dealing with the issue of Corporate Manslaughter?
d) How has a company held accountable for the act of corporate manslaughter; is the remedy and quantum of punishment suffice the act or is it justified for the company?
e) What is the underlying principle that guides the court in adjudicating the matter of Corporate Manslaughter?
f) What is the reason for not adopting specific legislation with regards to Corporate Manslaughter despite Indian experience of various historic industrial disasters?

VII.SIGNIFICANCE OF THE STUDY

While previous studies have focused solely on the distinction between corporate and street crime without delving into the negative and positive implications of enacting explicit corporate manslaughter legislation, the uniqueness of this study lies in the inclusion of a number of factors that have previously been overlooked. Furthermore, even though much has been done or apparent progress hasn't occurred for whatever reason, the government of India is also concern about adopting a precise legal framework in this area. As a result, the research will be significant not only in terms of research but also in terms of practical application where it can facilitate the government in formulating an idea in furthering the matter in this regard.

VIII.SCOPE OF STUDY:

The study will be limited to Corporate Manslaughter caused by a company registered in India as a public or private company under the Companies Act, 2013, a body corporate; a society registered under any cooperative society Act; and a foreign company with a place of business or subsidiary in India. It will also limit its control mechanisms to only those corporate houses pertaining to corporate governance.

Exclusion criteria: Partnership firm, one person company, section-8 company.

IX.RESEARCH HYPOTHESIS:

H1. The lack of explicit codified regulations of Corporate Manslaughter has resulted in an increase in the number of cases of passive Corporate Homicide in India.

H2. As corporate manslaughter legislation evolves, it will not only fill the void left by the lack of an appropriate remedy but will also make it easier to safeguard a variety of company stakeholders.

X.RESEARCH METHODOLOGY

The researcher will adopt both **Descriptive** and **Exploratory research Methods. Descriptive research** will be adopted, since the researcher is more focused on what describes the characteristics of the phenomenon that will be studied which is more on the "what" of the **research** subject rather than the "why" of the **research** subject problem.

Also, the researcher will simultaneously adopt **Exploratory research,** as the area of interest has not been studied or thoroughly investigated in the past. Hence, to gain familiarity with an existing phenomenon and acquire new insight into it, to form a more precise problem with an intended outcome which will provide answers to questions like what, how and why of the study. Therefore, the researcher will rely upon the primary and secondary sources for data collection in which various data collection methods are like a case study, interview, reviewed journals, articles, newspaper, questionnaire.

XI.TENTATIVE CHAPTERIZATION:

Chapter I: Introduction: The chapter will render the evolution of the concept of "Corporate Criminal Liability" and recognition of "Corporate Manslaughter" as a criminal offence and the gist and significance of corporate governance.

Chapter II: Countries "with" and "without" settled law on corporate manslaughter: A Comparative analysis. This chapter will examine the implications of having a well-established corporate manslaughter statute and attempt to address a prominent question as to "whether countries with settled laws more successful in preventing the occurrence of corporate manslaughter" and further distinguish the merits and drawbacks of having and not having of such a regulation.

Chapter III: Accountability and remedy: In light of various industrial disasters, the plight of the victims' families, and the effectiveness of existing statutes addressing

concerns related to corporate manslaughter, this chapter will examine the effectiveness of existing several statutes, as well as the scope of corporate liability under such statutes and the remedies facilitated; determine the fundamental concept that guides the court in deciding on Corporate Manslaughter cases. In order to attain the type of result it seeks in this chapter, the researcher will adopt empericle studies.

Chapter IV: Analysing the need for evolving Corporate Manslaughter legislation in India: The chapter will analyse why the Indian legislature has not seen the need to enact special legislation to provide punishments or restrictions that can be enforced on corporations for corporate manslaughter. Further, the chapter will explore the feasibility of enacting corporate manslaughter law in line with corporate governance emphasizing how the outcome can facilitate effective protection of diverse interest of corporate stakeholders.

Chapter V: Conclusion/suggestions: Based on the findings, this chapter will highlight some of the current legislation's flaws in dealing with the current issue surrounding the offence in question. And, further will draw a conclusion on *"why"* and *"why not"* corporate manslaughter legislation should be adopted in India.

XII. Proposed Month-wise plan of work and targets to be achieved:

S. No.	ACTIVITIES	Months-Year									
		J-23	F-23	M-23	A-23	M-23	J-23	J-23	A-23	S-23	O-23
1	Thesis Proposal										
2	Extended Literature Review										
3	Questionnaire										
4	Pilot testing and										
5	Data collection										
9	Data preparation										
10	Data analysis &										
11	Report writing: Chapter1: ……..										
12	Report writing: Chapter 3:										
14	Thesis Writing, Publications and										
15	Thesis Submission										

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